

§ 929.104

the necessary labor and pay the costs of moving, weighing, and otherwise making available the sample the inspector chooses for inspection. The size of the sample shall be determined by the inspector. In the case of inspection of a lot of unscreened cranberries, the sample shall be screened by the handler under the supervision of the inspector and the inspection certificate shall show the quantity of cranberries in such lot which meets the requirements established for withheld cranberries pursuant to § 929.54(c).

[28 FR 11611, Oct. 31, 1963]

§ 929.104 Outlets for excess cranberries.

(a) In accordance with § 929.61, excess cranberries may be disposed of only in the following noncommercial or non-competitive outlets, but only if the requirements in paragraph (b) of this section are complied with:

- (1) Foreign countries, except Canada.
- (2) Charitable institutions.
- (3) Any nonhuman food use.
- (4) Research and development projects approved by the committee dealing with the development of foreign and domestic markets, including, but not limited to dehydration, radiation, freeze drying, or freezing of cranberries.

(b) Excess cranberries may not be converted into canned, frozen, or dehydrated cranberries or other cranberry products by any commercial process. Handlers may divert excess cranberries in the outlets listed in paragraph (a) of this section only if they meet the diversion requirements specified in § 929.61(c).

[65 FR 42614, July 11, 2000, as amended at 66 FR 34351, June 27, 2001]

§ 929.105 Reporting.

(a) Each report required to be filed with the committee pursuant to §§ 929.6 and 929.48 shall be mailed to the committee office or delivered to that office. If the report is mailed, it shall be deemed filed when postmarked.

(b) Certified reports shall be filed with the committee, on a form provided by the committee, by each handler not later than January 5, May 5, and August 5 of each fiscal period and

7 CFR Ch. IX (1-1-08 Edition)

by September 5 of the succeeding fiscal period showing:

(1) The total quantity of cranberries the handler acquired and the total quantity of cranberries and *Vaccinium oxycoccus* cranberries the handler handled from the beginning of the reporting period indicated through December 31, April 30, July 31, and August 31, respectively, and

(2) The respective quantities of cranberries and *Vaccinium oxycoccus* cranberries and cranberry products and *Vaccinium oxycoccus* cranberry products held by the handler on January 1, May 1, August 1, and August 31 of each fiscal period.

[53 FR 12374, Apr. 14, 1988, as amended at 61 FR 30498, June 17, 1996; 62 FR 916, Jan. 7, 1997]

§ 929.106 Fiscal period.

The fiscal period specified in § 929.6 of this part which began September 1, 1968, and ends on August 31, 1969, is changed to include the period of August 1, through August 31, 1968. Thereafter, the fiscal period will begin on September 1 and end on August 31 of the following year.

[33 FR 16492, Nov. 13, 1968]

§ 929.110 Transfers or sales of cranberry acreage.

(a) Sales or transfers of cranberry acreage shall be reported by the transferor and transferee to the committee, in writing, on forms provided by the committee. Completed forms shall be sent to the committee office not later than 30 days after the transaction has occurred.

(b) Upon transfer of all or a portion of a growers' acreage, the committee shall be provided with certain information on the forms it will provide to the parties. The transferor and transferee must provide the following information:

- (1) Crop records for the acreage involved;
- (2) Annual production and sales for each crop year on the acreage involved, either in total, or for each individual parcel; and
- (3) Such other information as the committee deems necessary.

(c) Cranberry acreage sold or transferred shall be recognized in connection with the issuance of sales history as follows:

(1) If a grower sells all of the acreage comprising the entity, all prior sales history shall accrue to the purchaser;

(2) If a grower sells only a portion of the acreage comprising the entity from which prior sales have been made, the purchaser and the seller must agree as to the amount of sales history attributed to each portion and shall provide, on a form provided by the committee, sufficient information so that sales are shown separately by crop year. However, the sales history attributed to each portion shall not exceed the total sales history, as determined by the committee, for such acreage at the time of transfer.

(d) During a year of regulation, all transfers of growers' sales histories for partial or total leases of acreage shall be received in the Committee office by close of business on July 31.

[59 FR 36023, July 15, 1994, as amended at 66 FR 34351, June 27, 2001]

§ 929.125 Committee review procedures.

Growers may request, and the Committee may grant, a review of determinations made by the Committee pursuant to section 929.48, in accordance with the following procedures:

(a) If a grower is dissatisfied with a determination made by the Committee which affects such grower, the grower may submit to the Committee within 30 days after receipt of the Committee's determination of sales history, a request for a review by an appeals subcommittee composed of two independent and two cooperative representatives, as well as a public member. Such appeals subcommittee shall be appointed by the Chairman of the Committee. Such grower may forward with the request any pertinent material for consideration of such grower's appeal.

(b) The subcommittee shall review the information submitted by the grower and render a decision within 30 days of receipt of such appeal. The subcommittee shall notify the grower of its decision, accompanied by the reasons for its conclusions and findings.

(c) The grower may further appeal to the Secretary, within 15 days after notification of the subcommittee's findings, if such grower is not satisfied with the appeals subcommittee's decision. The Committee shall forward a file with all pertinent information related to the grower's appeal. The Secretary shall inform the grower and all interested parties of the Secretary's decision. All decisions by the Secretary are final.

[66 FR 34351, June 27, 2001]

§ 929.142 Reserve.

(a) It is necessary and appropriate to establish and maintain a reserve in an amount not to exceed approximately one fiscal period's operational expenses to be used in accordance with the provisions of § 929.42 of the marketing agreement and this part, and

(b) Assessments collected for each of the fiscal periods ended July 31, 1963; July 31, 1965; July 31, 1966; and July 31, 1967, were in excess of expenses for such periods. The committee is hereby authorized to place excess funds in said reserve.

[28 FR 11052, Oct. 16, 1963, as amended at 32 FR 13253, Sept. 20, 1967. Redesignated at 44 FR 73011, Dec. 17, 1979]

§ 929.149 Determination of sales history.

A sales history for each grower shall be computed by the Committee in the following manner.

(a) For each grower with acreage with 7 or more years of sales history, a new sales history shall be computed using an average of the highest 4 of the most recent 7 years of sales. If the grower has acreage with 6 years sales history, a new sales history shall be computed by averaging the highest 4 of the 6 years. If the grower has acreage with 5 years of sales history and such acreage was planted prior to 1995, a new sales history shall be computed by averaging the highest 4 of the 5 years.

(b) For growers whose acreage has 5 years of sales history and was planted in 1995 or later, the sales history shall be computed by averaging the highest 4 of the 5 years and shall be adjusted as provided in paragraph (d). For growers